

TRANSLATION

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference C104168WO	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/EP2004/012671	International filing date (<i>day/month/year</i>) 09.11.2004	Priority date (<i>day/month/year</i>) 14.11.2003
International Patent Classification (IPC) or national classification and IPC A61B5/03		
Applicant MEDOS INTERNATIONAL S.A.R.L.		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>6</u> sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising: a. <input type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of _____ sheets, as follows: <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items: <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-7 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. 1-14 _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* _____ received by this Authority on _____
- nos.* _____ received by this Authority on _____
- ☒ the drawings:
- sheets 1/3-3/3 _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1.	Statement		
	Novelty (N)	Claims	YES
		Claims 1-14	NO
	Inventive step (IS)	Claims	YES
		Claims 1-14	NO
	Industrial applicability (IA)	Claims 1-14	YES
		Claims	NO
2.	Citations and explanations (Rule 70.7)		
	<p>This report makes reference to the following documents:</p> <p>D1: US-A-6 083 174 (BREHMEIER-FLICK ET AL) 4 July 2000 (2000-07-04)</p> <p>D2: US-A-5 951 487 (BREHMEIER-FLICK ET AL) 14 September 1999 (1999-09-14)</p> <p>1. The present application does not meet the requirements of PCT Article 33(1), because the subject matter of claims 1-14 lacks novelty within the meaning of PCT Article 33(2).</p> <p>1.1 D1 discloses in figures 1 and 2 (the reference signs in parentheses refer to said document): <i>an implant for an intracorporal, telemetric measurement having a sensor device 1 and an inductive coil 2 (see column 4, lines 13-14) that is connected to the sensor device via electrical connection lines 4 arranged on an elongated carrier 3 (see D1, claim 1),</i> <i>and having a covering 6a that encapsulates the</i></p>		

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	<p><i>sensor device, the carrier with the connection lines, and the coil (see column 4, lines 36-37),</i></p> <p><i>the carrier for the electrical connection lines having a resistance measured such that the sensor device that is fixedly attached to a carrier end is guided by the carrier to the target location during implantation and held in position at the target location (see column 4, lines 23-26),</i></p> <p><i>and that the covering part that encapsulates the coil is embodied so as to be suitable for being fixed subcutaneously (see column 4, lines 23-26 and column 4, lines 36-37).</i></p> <p>Therefore, the subject matter of the main claim 1 lacks novelty.</p> <p>1.2 As can be seen from figure 1 and column 4, line 20, two connection lines are also arranged on the carrier, and therefore the subject matter of claim 3 is likewise known.</p> <p>1.3 The carrier, which is made of film, is flat, and therefore the subject matter of claims 4 (film), 6 (flat) and 10 (common carrier) likewise lacks novelty.</p> <p>1.4 The same applies to claim 11 (pressure sensor); see D1, claim 2.</p> <p>1.5 The subject matter of claim 12 (covering part</p>

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	<p>for subcutaneous...) is likewise known from D1; see column 4, lines 36-39 and 24-25. The same applies to claim 13 (silicon).</p> <p>1.6 As can be seen from column 1, lines 50-56 and, in particular, column 3, lines 16-18, the implant is intended and suitable for intraparenchymal or intraventricular brain pressure measurement, and therefore the subject matter of claim 14 likewise lacks clarity.</p> <p>1.7 The above (at least, point 1.1) can also be carried out with the help of D2; see column 2, line 50 to column 3, line 25, figures 1 and 2.</p> <p>Owing to the flexibility of the carrier, the subject matter of claim 2 (carrier inclined in relation to coil) is also already known, depending on the type of implant or positioning; see, for example, D2, figure 2.</p> <p>1.8 D2 shows that the pressure sensor 5 is cast (in a form-fitting manner) in a polyamide or polyurethane compound (see column 2, lines 62-63) and therefore this solidified mass can be regarded as a frame, and consequently the subject matter of claims 8 and 9 likewise lacks novelty.</p> <p>1.9 As was already mentioned in point 1.1, film 3 has a certain rigidity (D1, column 4, lines 24-26) and therefore in the covering part 6a (column 4, lines 36-37), this film can indeed be regarded as a</p>

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	<p>reinforcing film or armoring, and therefore the subject matter of claim 5 likewise lacks novelty.</p> <p>1.10 It can be seen from point 1.9 that the carrier or the film can be regarded as stiffened, and furthermore the expression "more particularly" points to the fact that the features mentioned such as cambering and a cross-section shaped as a rectangle or as a segment of a circle do not have to form part of the claim, and therefore the subject matter of claim 7 likewise lacks novelty.</p> <p>The subject matter of claims 1-14 lacks novelty within the meaning of PCT Article 33(2).</p> <p>2. If the expression "more particularly" were deleted from claim 7, the subject matter of the claim would not meet the requirements of PCT Article 6 owing to the word "cambering", because it would not be clear which "uneven sections" the film would have to have in order to increase the rigidity.</p> <p>If the word "cambering" were also deleted, then the subject matter of claim 7 would appear to be novel and inventive.</p> <p>Yves Bernas</p>